

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA, *ex rel.*
KEITH D. WILKEY, M.C.,

Plaintiff/Relator,

v.

Civil Action 2:22-cv-2404
Judge Michael H. Watson
Magistrate Judge Chelsey M. Vascura

UNITEDHEALTH GROUP, *et al.*,

Defendants.

REPORT AND RECOMMENDATION

Relator commenced this qui tam action under the False Claims Act by filing his Complaint against Defendants under seal on June 7, 2022 (ECF No. 1). On February 8, 2023, after the United States gave notice of its election to decline intervention, the Court unsealed the Complaint and all other filings in the case. (ECF No. 6.) The February 8, 2023 Order also directed Relator to serve the Complaint on the Defendants. (*Id.*) After 90 days passed without Relator filing evidence of service of process over Defendants as required by Federal Rule of Civil Procedure 4(m), the Court ordered Relator on May 15, 2023, to show cause within fourteen days why the Court should not dismiss this action without prejudice for failure to effect service, and why the Court should allow an extension of time to effect service. (Show Cause Order, ECF No. 7.)

To date, Relator has not responded to the Show Cause Order or effected service over the Defendants. It is therefore **RECOMMENDED** that this action be dismissed without prejudice pursuant to Rule 4(m) for failure to timely effect service of process.

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A District Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a District Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

/s/ Chelsey M. Vascura
CHELSEY M. VASCURA
UNITED STATES MAGISTRATE JUDGE